REMARKS

Upon entry of this amendment, Claims 1-14 are pending. Claim 1 has been amended to further clarify the subject matter claimed. Claims 15-35 are canceled without prejudice. Applicants reserve the rights to prosecute claims of identical or similar scope in future application.

Applicants hereby provisional elect, *for search purpose only*, Group II, Claims 1-14, *with traverse*, on the following grounds.

The Restriction Requirement divides dependent Claim 10 to five groups, based on the recited antibodies in Claim 10. The Restriction Requirement then requires Applicants to elect one specific antibody to prosecute on the merits. For the reasons below, Applicants believe that the Restriction Requirement would be improper if the Restriction is not interpreted as requiring Applicants to elect a species election for *search purpose* only. Thus Applicants hereby elect *with traverse*, and *for search purpose only*, the election indicated hereinabove.

Applicants traverse this species restriction requirement on the basis that Applicants are claiming a *genus* of methods, rather than a *species* method limited to the use of specific antibodies. The independent *genus* Claim 1 do not even recite any specific antibody *species*. Thus it is inappropriate for the Examiner to restrict the claimed invention to an un-recited *species* in a *genus* claim, because doing so amounts to using Restriction Requirement to limit the scope of independent claims that have not yet been examined on merits. Applicants note that the statutory basis for restriction practice arises under 35 U.S.C. § 121, which authorizes the patent office to require that each patent application be limited to a single invention. However, there is no basis in the statute or the rules (37 C.F.R. §§ 1.141 and 1.142) for the patent office to eliminate inventions from consideration entirely. A genus invention is as much an invention as each species. Thus, when the examiner enumerates the various inventions that Applicants are requested to choose between, examiner is not authorized to omit the generic inventions.

Accordingly, reconsideration and withdrawal of the Restriction are respectfully requested.

Presently, Claims 1-14 read on the elected species ("Alt-2").

In addition, Applicants note (and the Examiner agrees) that Claims 1-9 and 11-14 are generic claims linking elected and non-elected species. Pursuant to MPEP 809.04, "[i]f a linking claim is allowed, the examiner must thereafter examine species if the linking claim is generic thereto, or he or she must examine the claims to the non-elected inventions that are linked to the elected invention by such allowed linking claim." Thus, restrictions imposed on species encompassed by generic claims must be withdrawn upon indication of an allowable generic claim (MPEP 809). In other words, upon the allowance of a generic claim, Applicants are entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 C.F.R. § 1.141 (MPEP 809.02(a)).

Furthermore, the burden is on the Examiner to examine the generic claims throughout their scope, together with any claims dependent thereon drawn to non-elected species or inventions, rather than for Applicants to limit the scope of the generic claims to conform to the scope of any species or inventions listed in a Restriction Requirement.

Although Applicants believe no fees other than those listed in the accompanying Amendment Transmittal are due, the Director is hereby authorized to credit any overpayment or charge any deficiency in the fees filed, asserted to be filed or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Deposit Account No. **18-1945**, from which the undersigned is authorized to draw under Order No. **AREX-P01-015**.

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Respectfully submitted,

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